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OFFICE OF PETITIONS

SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of: :
Bozak et al. : LETTER REGARDING
Application No. 10/712886 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 11/12/2003 :
Atty. Docket No.: 09700.0035-00 :

This letter is in response to the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR REVIEW OF CALCULATION," filed October 15, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 798 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The Determination of Patent Term Adjustment mailed July 16, 2009 indicated that the above-identified application was entitled to a PTA of 905 days. Applicants believe that there should be a 72 day reduction of patent term adjustment for the Information Disclosure Statement ("IDS"), on February 11, 2009 and a 42 day reduction of patent term adjustment for the IDS filed on July 1, 2009.

As indicated by applicants, the Office neglected to assess a reduction of 72 days in accordance with 37 CFR 1.704(c)(8) in connection with the IDS, filed February 11, 2009. The reduction commenced December 2, 2008, the day after the date that the initial reply was filed, and ended February 11, 2009, the date that the supplemental reply, IDS, was filed.

As further indicated by applicants, the Office neglected to assess a reduction in connection with the IDS filed July 1, 2009. In accordance with 37 CFR 1.704(c)(8), the adjustment of patent term is subject to further reduction of 35 days. The reduction commenced May 28, 2009, the day after the date that the first supplemental reply in response to the non-final Office action was filed, and ended July 1, 2009, the date that the second supplemental reply to the non-final Office action was filed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **798 days**, (912 days of PTO delay, reduced by 114 days (72 days + 7 days + 35 days) of applicant delay), subject to any terminal disclaimer.

Given the basis for granting this petition, no fee has been charged. The Office thanks applicants for their candor and good faith in bringing this matter to the attention of the Office.

The file is being forwarded to the Office of Data Management for processing into a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

Alesia Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Updated PAIR Screen

Day : Sunday
Date: 2/28/2010

PALM INTRANET

Time: 16:12:22

PTA Calculations for Application: 10/712886

Application Filing Date:	11/12/2003	PTO Delay (PTO):	912
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	7
Post-Issue Petitions:	0	Total PTA (days):	798
PTO Delay Adjustment:	-107		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
111	02/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		35	
110	02/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		72	
72	07/16/2009	MAIL NOTICE OF ALLOWANCE			
71	07/15/2009	ISSUE REVISION COMPLETED			
70	07/01/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
69	07/09/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
68	07/09/2009	DOCUMENT VERIFICATION			
67	07/09/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
66	07/01/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	06/25/2009	NOTICE OF ALLOWABILITY			
63	05/27/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	05/27/2009	REFERENCE CAPTURE ON IDS			
61	05/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		7	59
60	06/04/2009	DATE FORWARDED TO EXAMINER			
59	05/20/2009	RESPONSE AFTER NON-FINAL ACTION			
58	05/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	05/19/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
56	05/13/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
55	02/11/2009	REFERENCE CAPTURE ON IDS			

54	02/11/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	03/04/2009	MAIL NON-FINAL REJECTION			
52	03/02/2009	NON-FINAL REJECTION			
51	02/11/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	02/11/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	12/15/2008	DATE FORWARDED TO EXAMINER			
48	12/01/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
47	12/15/2008	DATE FORWARDED TO EXAMINER			
46	12/01/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
45	12/15/2008	DISPOSAL FOR A RCE / CPA / R129			
44	12/01/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	10/03/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
42	09/24/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
41	09/03/2008	MAIL FINAL REJECTION (PTOL - 326)			
40	09/02/2008	FINAL REJECTION			
39	06/19/2008	DATE FORWARDED TO EXAMINER			
38	06/12/2008	RESPONSE AFTER NON-FINAL ACTION			
37	06/11/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
36	06/04/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
35	03/13/2008	MAIL NON-FINAL REJECTION			
34	03/03/2008	NON-FINAL REJECTION			
33	02/22/2008	DATE FORWARDED TO EXAMINER			
32	02/15/2008	AMENDMENT AFTER FINAL REJECTION			
31	11/20/2007	MAIL FINAL REJECTION (PTOL - 326)			
30	11/19/2007	FINAL REJECTION			
29	10/15/2007	CASE DOCKETED TO EXAMINER IN GAU			
28	09/26/2007	DATE FORWARDED TO EXAMINER			
27	09/20/2007	RESPONSE AFTER NON-FINAL ACTION			
26	09/26/2007	CORRESPONDENCE ADDRESS CHANGE			
25	07/23/2007	CASE DOCKETED TO EXAMINER IN GAU			
24	07/13/2007	MAIL NON-FINAL REJECTION	912		-1

23	07/09/2007	NON-FINAL REJECTION			
22	04/07/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	06/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	06/26/2007	CASE DOCKETED TO EXAMINER IN GAU			
19	04/23/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	04/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	01/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	07/22/2006	TRANSFER INQUIRY TO GAU			
15	01/20/2006	TRANSFER INQUIRY TO GAU			
14.7	06/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	06/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/10/2005	CORRESPONDENCE ADDRESS CHANGE			
12	06/10/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
11	05/20/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10.7	04/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	04/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	02/09/2004	APPLICATION RETURN FROM OIPE			
7	02/09/2004	APPLICATION RETURN TO OIPE			
6	02/09/2004	APPLICATION DISPATCHED FROM OIPE			
5	02/09/2004	APPLICATION IS NOW COMPLETE			
4	01/29/2004	CLEARED BY OIPE CSR			
3	01/29/2004	CASE CLASSIFIED BY OIPE			
2	12/26/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/12/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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